

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

MEMORANDUM

TO: TAX AND FISCAL POLICY TASK FORCE MEMBERS

FROM: JONATHAN WILLIAMS, SENIOR TASK FORCE DIRECTOR, TAX AND FISCAL POLICY

DATE: MARCH 28, 2014

RE: 35 DAY MAILING—ALEC'S SPRING TASK FORCE SUMMIT: TAX AND FISCAL POLICY TASK FORCE

The American Legislative Exchange Council will host its Spring Task Force Summit on May 2nd at the Kansas City Marriot Downtown in Kansas City, Missouri. **The Public Pension Reform Working Group will convene on Friday, May 2nd from 9:00 a.m. until 10:00 a.m. The Fiscal Policy Reform Working Group will meet from 10:15 a.m. until 11:15 a.m. Tax and Fiscal Policy Task Force members are invited to join us for a Task Force luncheon from 12:30 p.m. until 1:30 p.m. The Tax and Fiscal Policy Task Force will meet from 2:00 p.m. until 5:00 p.m. on Friday, May 2nd.**

Finally, I am pleased to announce that the Tax and Fiscal Policy Task Force and the Education Task Force are forming a new Joint Education Finance Working Group. This working group will focus on best practices and research on education funding. **The Joint Education Finance Working Group will have an organizational meeting from 11:30 a.m. until 12:00 p.m. on Friday, May 2nd.** All ALEC members that are interested in education finance are welcome to attend.

Please find the following materials enclosed:

- Spring Task Force Summit Tentative Schedule
- Task Force Meeting Tentative Agenda
- Draft Model Policy Summaries
- Draft Model Policies
- Articles of Interest
- ALEC Mission Statement
- ALEC Task Force Operating Procedures
- ALEC Meeting Reimbursement Policies

Travel and Accommodations: The Exchange Council's Spring Task Force Summit and all task force meetings will be held in Kansas City, Missouri at the **Kansas City Marriot Downtown**. Please register for the conference online at <http://www.alec.org/meetings>. If you have any questions about registration, please call 571-482-5056.

I look forward to seeing all of you in Kansas City, for what is sure to be an excellent meeting. If you have any questions or comments regarding the meeting, please contact me at 571-482-5011 or by e-mail at jwilliams@alec.org.

Cordially,

Jonathan Williams
Senior Task Force Director, Tax & Fiscal Policy
Director, Center for State Fiscal Reform

2014 Spring Task Force Summit Schedule of Events

Friday, May 2nd, 2014

9am – 12pm Subcommittee Meetings

12:30pm – 1:30pm Task Force Luncheons

2pm- 5pm Task Force Meetings

5:30pm – 7pm Kansas City Reception



**TAX AND FISCAL POLICY TASK FORCE MEETING
2014 SPRING TASK FORCE SUMMIT
KANSAS CITY, MISSOURI
FRIDAY, MAY 2ND 2:00 P.M. – 5:00 P.M.**

**New Hampshire Rep. Ken Weyler – Public Sector Chair
Amanda Klump – Private Sector Chair
Jonathan Williams – Senior Task Force Director**

- 2:00 Call to Order, Welcome, and Introductions**
- 2:05 Old Business – Approval of States and Nation Policy Summit Minutes**
- 2:10 A Report from the Fiscal Policy Reform Working Group**
- 2:15 A Report from the Public Pension Reform Working Group**
- 2:20 A Report from the Joint Education Finance Working Group**
- 2:25 The Michigan Comeback**
- 2:40 Legislative Leaders Panel – Fiscal Reforms in the States**
- 3:10 *Rich States, Poor States 2014* – How does your state rank?**
- 3:25 State Fiscal Preparedness**
- 3:40 Internet Sales Tax Collection Panel**
- 4:05 Measuring the Effectiveness of Recent Tax Reform in Kansas**
- 4:15 An Update on School Finance Lawsuits**
- 4:25 Measuring Policy Outcomes**
- 4:40 Indiana’s Fiscal Federalism**
- 4:50 Consideration of New Model Policy:**
 - I. Retirement System Board of Trustees and Employees Prudent Investor Act**
 - Amendments to Existing Model Policies:**
 - II. Amendments to the Council on Efficient Government Act**
 - III. Amendments to the Promoting Transparency in State Unfunded Liabilities Act**

4:55 New Business

5:00 Adjournment

DRAFT

**2014 Spring Task Force Summit
Kansas City, Missouri—May 2, 2014
Tax and Fiscal Policy Task Force
Bill Summaries**

Proposed Model Policy for Task Force Consideration

Retirement System Board of Trustees and Retirement System Employees Prudent Investor Act

This policy promotes security, stability, and accountability in state retirement systems. A trustee or director of a state retirement system must comply with a series of prudent investor guidelines. These guidelines include risk and return objectives, diversification, loyalty, investment costs, compliance, and delegation of management functions.

Model Policies for Five Year Review Process

Council on Efficient Government Act

This policy is designed to create a council on efficient government whose purpose is to ensure that each state agency focuses on its core mission and delivers goods and services effectively and efficiently by leveraging resources and contracting with private sector vendors if those vendors can more effectively and efficiently provide goods and services and reduce the cost of government. Additionally, the council is to evaluate for feasibility, cost effectiveness, and efficiency business cases to be outsourced before a state agency proceeds with any outsourcing of goods or services.

These amendments update the policy by replacing all references to the “Governor’s Office of Strategic Planning and Budgeting” with the “Governor’s Budget Office.”

Promoting Transparency in State Unfunded Liabilities

It is clear that citizens are demanding greater transparency in accounting for the costs of state and local government. Given the large and growing unfunded liabilities in pension and other post-employment benefit plans, it is crucial for state and local governments to meet accounting standards for these plans established by the Government Accounting Standards Board (GASB).

These proposed amendments encourage state budget officials to make publicly available the actuarially determined Annual Required Contribution (ARC), including its underlying assumptions, and the actual contributions made by the legislature in an online searchable database. Additionally, these amendments also require that the covered ratio liability should reflect the latest liability calculated according to a single, risk-free discount rate (in addition to GASB's now recommended "blended" discount rates).

Retirement System Board of Trustees and Employees Prudent Investor Act

Summary

This Act promotes security, stability, and accountability in state retirement systems. A trustee or director of a state retirement system must comply with a series of prudent investor guidelines. These guidelines include risk and return objectives, diversification, loyalty, investment costs, compliance, and delegation of management functions.

This Act shall be known and may be cited as the “{insert state} Retirement System Board of Trustees and Retirement System Employees Prudent Investor Act.”

Model Policy

Section 1. {Prudent Investor Rule}

(A) Except as otherwise provided in subsection B of this section, a trustee or director of any {insert state} retirement system who invests and manages, or delegates the approval of the investment or management of retirement system assets owes a duty to the beneficiaries of the system to comply with the prudent investor rule set forth in the “{insert state} Retirement System Board of Trustees and Retirement System Employees Prudent Investor Act.”

(B) A trustee or director or retirement system employee is not liable to a beneficiary or state taxpayer to the extent that the trustee, director or retirement system employee acted in reasonable reliance on the statutory provisions and rules of the trust. A trustee or director or retirement system employee who exercises reasonable care, skill, and caution in performance of actions as a trustee or director or retirement system employee is not liable to a beneficiary for the actual investment return results or retirement system operational results.

Section 2. {Standard of Care - Portfolio Strategy - Risk and Return Objectives}

(A) A trustee or director or retirement system employee shall invest and manage or approve the investment and management of retirement system assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the retirement system. In satisfying this standard, the trustee or director or retirement system employee shall exercise reasonable care, skill, and caution.

(B) A trustee or director or retirement system employee’s investment and management decisions or approval of investment and management decisions respecting individual assets of the retirement system must be evaluated not in isolation, but in the context of the retirement system’s portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the statutory and rules governing the system.

(C) Among circumstances that a trustee or director or retirement system employee shall consider in investing and managing retirement system assets or the delegation of approval of investing and

managing retirement system assets are those of the following as are relevant to the retirement system or its beneficiaries:

(1) General economic conditions;

(2) The possible effect of inflation or deflation;

(3) The expected tax consequences of investment decisions or strategies;

(4) The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;

(5) The expected total return from income and the appreciation of capital;

(6) Other resources of the retirement system on behalf of beneficiaries;

(7) Needs for liquidity, regularity of income, and preservation or appreciation of capital; and

(8) An asset's special relationship or special value, if any, to the purposes of the retirement system or to the beneficiaries.

(D) A trustee or director or retirement system employee or a trustee or director or retirement system employee who delegates approval of investing and managing retirement system assets shall make a reasonable effort to verify facts relevant to the investment and management of retirement system assets.

(E) A trustee or director or retirement system employee or a trustee or director or retirement system employee who delegates approval of investing and managing retirement system assets may invest in any kind of property or type of investment consistent with the standards of the “{insert state} Retirement System Board of Trustees and Retirement System Employees Prudent Investor Act.”

(F) A trustee or director or retirement system employee or a trustee or director or retirement system employee who delegates approval of investing and managing retirement system assets shall not make a determination to invest or increase the investment of retirement system assets based on ideological or non-financial related positions for or against specific industries. A trustee or director or retirement system employee or a trustee or director or retirement system employee who delegates approval of investing and managing retirement system assets shall not make a determination to avoid investment of or reduce the investment of retirement system assets based on ideological or non-financial related positions for or against specific industries. Prior to a determination by a trustee or director or retirement system employee to avoid investment of or reduce the investment of retirement system assets in a specific industry, external expertise from an independent third-party must be consulted. The results and recommendation of the consulted expertise shall be made available for public review.

Section 3. {Diversification}

A trustee or director or retirement system employee or a trustee or director or retirement system employee who delegates approval of investing and managing retirement system assets shall diversify the investments of the trust unless it is reasonably determined that, because of special circumstances, the purposes of the retirement system are better served without diversifying.

Section 4. {Loyalty}

A trustee or director or retirement system employee or a trustee or director or retirement system employee who delegates approval of investing and managing retirement system assets shall invest and manage the retirement assets solely in the interest of the beneficiaries.

Section 5. {Investment Costs}

In investing and managing trust assets, a trustee or director or retirement system employee or a trustee or director or retirement system employee who delegates approval of investing and managing retirement system assets may only incur costs that are appropriate and reasonable in relation to the assets of the retirement system.

Section 6. {Reviewing Compliance}

Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee director or retirement system employee or a trustee or director or retirement system employee who delegates approval of investing and managing retirement system assets' decision or action and not by hindsight.

Section 7. {Delegation of Investment and Management Functions}

(A) A trustee or director or retirement system employee may delegate investment and management functions. The trustee shall exercise reasonable care, skill, and caution in:

(1) Selecting an agent;

(2) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the retirement system; and

(3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

(B) In performing a delegated function, an agent owes a duty to the retirement system to exercise reasonable care to comply with the terms of the delegation.

(C) A trustee or director or retirement system employee of a retirement system who complies with the requirements of subsection A of this section is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

D) By accepting the delegation of a retirement system function from the trustee or director or retirement system employee of a retirement system that is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state.

PROPOSED AMENDMENTS

Council on Efficient Government Act

Summary

This legislation is designed to create a council on efficient government whose purpose is to ensure that each state agency focuses on its core mission and delivers goods and services effectively and efficiently by leveraging resources and contracting with private sector vendors if those vendors can more effectively and efficiently provide goods and services and reduce the cost of government. Additionally, the council is to evaluate for feasibility, cost effectiveness, and efficiency business cases to be outsourced before a state agency proceeds with any outsourcing of goods or services.

Model Legislation

Section 1. {Title.}

This Act shall be known and may be cited as the Council on Efficient Government Act.

Section 2. {Council on Efficient Government; members; terms; vacancies.}

(A) The Council on Efficient Government is established consisting of the following members:

(1) The chief executive or administrative officer of a state agency who is appointed by the Governor.

(2) Two members who are engaged in private enterprise and who are appointed by the Governor.

(3) Two members who are engaged in private enterprise and who are appointed by the President of the Senate.

(4) Two members who are engaged in private enterprise and who are appointed by the Speaker of the House of Representatives.

(B) The terms of appointment to the council are for two years unless the chief executive or administrative officer of a state agency ceases to hold office. The Governor shall appoint a replacement member for the remainder of the unexpired term.

(C) A member of the Council who is engaged in private enterprise is not eligible to receive compensation but is eligible for reimbursement of expenses, pursuant to state statute.

(D) A member of the Council may not participate in a council review of a business case to outsource if the state agency is conducting the proposed outsourcing or, in the case of a member engaged in private enterprise, if the member has a business relationship with an entity that is involved or potentially could be involved in the proposed outsourcing.

(E) A member of the Council who is engaged in private enterprise may not delegate the membership to a designee.

(F) A quorum shall consist of at least four members of the council.

(G) Any vacancy on the Council shall be filled in the same manner as the original appointment, and any member appointed to fill a vacancy occurring for a reason other than the expiration of a term serves only for the unexpired term of the member's predecessor.

(H) The Council shall select a chairperson from among its members.

Section 3. {Powers and duties of the council; annual report.}

(A) The Council shall:

(1) Review whether or not a good or service provided by a state agency could be privatized to provide the same type and quality of good or service that would result in cost savings or best value. The Council may hold public hearings as part of its evaluation process and shall report its recommendations to the Governor, the President of the Senate and the Speaker of the House of Representatives.

(2) Review privatization of a good or service at the request of a state agency or a private enterprise.

(3) Review issues concerning agency competition with one or more private enterprises to determine ways to eliminate any unfair competition with a private enterprise.

(4) Recommend privatization to a state agency if a proposed privatization is demonstrated to provide a more cost efficient or more effective manner of providing a good or service.

(5) Comply with Sections 4 and 5 of this bill.

(6) Employ a standard process for reviewing business cases to outsource.

(7) Review and evaluate business cases to outsource as requested by the Governor or the state agency head whose agency is proposing to outsource.

(8) No later than thirty days before a state agency's issuance of a solicitation of ten million dollars or more, provide to the state agency conducting the procurement, the Governor, the President of the Senate and the Speaker of the House of Representatives, an advisory report for each business case reviewed and evaluated by the Council. The report must contain all versions of the business case, an evaluation of the business case, any relevant recommendations and sufficient information to assist the state agency proposing to outsource in determining whether the business case to outsource should be included with the legislative budget request.

(9) Recommend and implement standard processes for state agency and council review and evaluate state agency business cases to outsource, including templates for use by state agencies in submitting business cases to the council.

(10) Recommend standards, processes and guidelines for use by state agencies in developing business cases to outsource.

(11) Incorporate any lessons learned from outsourcing services and activities into council standards, procedures and guidelines, as appropriate, and identify and disseminate to agencies information regarding best practices in outsourcing efforts.

(12) Develop guidelines for assisting state employees whose jobs are eliminated as a result of outsourcing.

(13) Receive complaints of violations of this article.

(14) Transmit complaints received under this section to the state agency alleged to be in violation.

(15) Hold public hearings on complaints and determine whether the agency is in violation of this article.

(16) Issue a written report of its findings to the complainant within ninety days after receiving the state agency's response.

(17) Transmit to the Governor, the President of the Senate and the Speaker of the House of Representatives a complete report of each meeting, including recommendations to correct violations of prohibitions on competition with private enterprise and findings on necessary exceptions to the prohibitions.

(18) Solicit petitions of interest from private sector service providers as the council considers appropriate. The council may evaluate and review the petitions and may hold public hearings as part of the evaluation process. The Council may recommend some or all of the petitions to the Governor's office for further review pursuant to state statute. A person does not have a cause of action based on the failure of the council to consider a petition of interest or make a recommendation.

(B) The Council may evaluate and review all state agency exemptions and exemptions to the restrictions on competition with private enterprise in this article and may determine that any function or functions of state agency are in violation of this article. The council shall report its findings and recommendations to the Governor, the President of the Senate and the Speaker of the House of Representatives.

(C) The council shall prepare an annual report on:

(1) Recommendations on innovative methods of delivering government services that would improve the efficiency, effectiveness or competition in the delivery of government services, including enterprise-wide proposals

(2) Outsourcing efforts of each state agency, including the number of outsourcing business cases and solicitations, the number and dollar value of outsourcing contracts, descriptions of performance results as applicable, any contract violations or project slippages and the status of extensions, renewals and amendments of outsourcing contracts.

(3) Information about the council's activities.

(4) The status of the inventory created under Section 4 of this bill.

(D) The Council shall submit the annual report prescribed by Subsection C of this section to the Governor, the President of the Senate and the Speaker of the House of Representatives no later than January 15 immediately following the calendar year for which the report is made. The council shall provide an oral report to the Joint Legislative Budget Committee and the ~~Governor's Office of Strategic Planning and Budgeting~~ {Governor's budget office} when the legislature is not in session.

(E) The Auditor General shall employ an adequate number of staff who collectively possess significant expertise and experience as required to carry out the responsibilities of this article.

(F) Each state agency shall submit to the council all information, documents and other materials required by the council pursuant to this article.

(G) At the request of the Council and on approval of the Joint Legislative Audit Committee, the Auditor General shall provide performance audit and other required information relating to state agency budgets and functions. The Auditor General may assist in the development and review of the agency inventory of commercial activities prescribed in Section 4.

(H) In addition to filing a copy of recommendations for privatization with an agency head, the council shall file a copy of its recommendations for privatization with the Governor's office, the Joint Legislative Budget Committee and the ~~Governor's Office of~~

~~Strategic Planning and Budgeting- {Governor's budget office}~~ for submission to the relevant legislative appropriation subcommittee.

(I) The council may appoint advisory groups to conduct studies, research or analyses and make reports and recommendations with respect to a matter within the jurisdiction of the council. At least one member of the council shall serve on each advisory group.

(J) Subject to Section 5, subsection B, this article does not preclude a state agency from privatizing the provision of a good or service independent of the council.

(K) Except as provided by section state statute, any aggrieved person may elect to directly seek judicial relief.

Section 4. {Commercial activities inventory and review.}

(A) On or before a date selected by the legislature, the council shall create an inventory of activities of state agencies to classify whether each activity or elements of the activity are:

(1) A commercial activity that can be obtained in whole or in part from a private enterprise.

(2) An inherently governmental activity.

(B) The Council shall update the inventory created under this section at least every two years.

(C) The Council shall make the inventory available to the public through electronic means.

(D) State agencies shall cooperate with inventory requests made by the Council.

Section 5. {Business cases to outsource; review and analysis; requirements.}

(A) A proposal to outsource having a projected cost of more than ten million dollars in any fiscal year shall require:

(1) An initial business case analysis conducted by the state agency and submitted to the Council, the Governor, the President of the Senate and the Speaker of the House of Representatives at least sixty days before a solicitation is issued. The Council shall evaluate the business case analysis and submit an advisory report to the state agency, the Governor, the President of the Senate and the Speaker of the House of Representatives when the advisory report is completed, but at least thirty days before the agency issues the solicitation.

166 (2) A final business case analysis conducted by the state agency and submitted after
167 the conclusion of any negotiations, at least thirty days before execution of a contract,
168 to the council, the Governor, the President of the Senate and the Speaker of the House
169 of Representatives.

170 (B) A proposal to outsource having a projected cost of at least one million dollars but not
171 more than ten million dollars in any fiscal year shall require:

172 (1) An initial business case analysis conducted by the state agency and submission of
173 the business case, at least thirty days before issuing a solicitation, to the Council, the
174 Governor, the President of the Senate and the Speaker of the House of
175 Representatives.

176 (2) A final business case analysis conducted by the state agency and submitted after
177 the conclusion of any negotiations, at least thirty days before execution of a contract,
178 to the Council, the Governor, the President of the Senate and the Speaker of the
179 House of Representatives.

180 (C) A business case to outsource having a projected cost of less than one million dollars
181 in any fiscal year shall require a final business case analysis conducted by the state
182 agency after the conclusion of any negotiations and provided to the council at least thirty
183 days before execution of a contract. The Council shall provide the business cases in its
184 annual report to the President of the Senate and the Speaker of the House of
185 Representatives.

186 (D) For any proposed outsourcing, the state agency shall develop a business case that
187 justifies the proposal to outsource. The business case is not subject to challenge or
188 protest. The business case must include:

189 (1) A detailed description of the service or activity for which the outsourcing is
190 proposed.

191 (2) A description and analysis of the state agency's current performance based on
192 existing performance measures if the state agency is currently performing the service
193 or activity

194 (3) The goals desired to be achieved through the proposed outsourcing and the
195 rationale for the goals.

196 (4) A citation to the existing or proposed legal authority for outsourcing the service
197 or activity.

198 (5) A description of available options for achieving the goals. If state employees are
199 currently performing the service or activity, at least one option involving maintaining
200 state provision of the service or activity shall be included.

- 201 (6) An analysis of the advantages and disadvantages of each option, including, at a
202 minimum, potential performance improvements and risks.
- 203 (7) A description of the current market for the contractual services that are under
204 consideration for outsourcing.
- 205 (8) A cost benefit analysis documenting the direct and indirect specific baseline
206 costs, savings and qualitative and quantitative benefits involved in or resulting from
207 the implementation of the recommended option or options. The analysis must specify
208 the schedule that, at a minimum, must be adhered to in order to achieve the estimated
209 savings. All elements of cost must be clearly identified in the cost benefit analysis,
210 described in the business case and supported by applicable records and reports. The
211 state agency head shall attest that based on the data and information underlying the
212 business case and to the best of the state agency head's knowledge all projected costs,
213 savings and benefits are valid and achievable. For the purposes of this paragraph:
- 214 (a) "Cost" means the reasonable, relevant and verifiable cost, which may
215 include elements such as personnel, materials and supplies, services, equipment,
216 capital depreciation, rent, maintenance and repairs, utilities, insurance,
217 personnel travel, overhead and interim and final payments. The appropriate
218 elements shall depend on the nature of the specific initiative.
- 219 (b) "Savings" means the difference between the direct and indirect actual
220 annual baseline costs compared to the projected annual cost for the contracted
221 functions or responsibilities in any succeeding state fiscal year during the term
222 of the contract.
- 223 (9) A description of differences among current state agency policies and processes
224 and, as appropriate, a discussion of options for or a plan to standardize, consolidate or
225 revise current policies and processes, if any, to reduce the customization of any
226 proposed solution that would otherwise be required.
- 227 (10) A description of the specific performance standards that must, at a minimum, be
228 met to ensure adequate performance.
- 229 (11) The projected time frame for key events from the beginning of the procurement
230 process through the expiration of a contract.
- 231 (12) A plan to ensure compliance with the public records law.
- 232 (13) A specific and feasible contingency plan addressing contractor nonperformance
233 and a description of the tasks involved in and costs required for its implementation.
- 234 (14) A state agency's transition plan for addressing changes in the number of agency
235 personnel, affected business processes, employee transition issues and
236 communication with affected stakeholders, such as agency clients and the public.

- 237 The transition plan must contain a reemployment and retraining assistance plan for
238 employees who are not retained by the state agency or employed by the contractor.
- 239 (15) A plan for ensuring access by persons with disabilities in compliance with
240 applicable state and federal law.
- 241 (16) A description of legislative and budgetary actions necessary to accomplish the
242 proposed outsourcing.
- 243 (E) Each contract for a proposed outsourcing pursuant to this section shall include the
244 following:
- 245 (1) A scope-of-work provision that clearly specifies each service or deliverable to be
246 provided, including a description of each deliverable or activity that is quantifiable,
247 measurable and verifiable. This provision must include a clause stating that if a
248 particular service or deliverable is inadvertently omitted or not clearly specified but
249 determined to be operationally necessary and verified to have been performed by the
250 agency within the twelve months before the execution of the contract, the service or
251 deliverable will be provided by the contractor through the identified contract
252 amendment process.
- 253 (2) A service level agreement provision describing all services to be provided under
254 the terms of the agreement, the state agency's service requirements and performance
255 objectives, specific responsibilities of the state agency and the contractor and the
256 process for amending any portion of the service level agreement. Each service level
257 agreement must contain an exclusivity clause that allows the state agency to retain the
258 right to perform the service or activity, directly or with another contractor, if service
259 levels are not being achieved.
- 260 (3) A provision that identifies all associated costs, specific payment terms and
261 payment schedules, including provisions governing incentives and financial
262 disincentives and criteria governing payment.
- 263 (4) A provision that identifies a clear and specific transition plan that will be
264 implemented in order to complete all required activities needed to transfer the service
265 or activity from the state agency to the contractor and operate the service or activity
266 successfully.
- 267 (5) A performance standards provision that identifies all required performance
268 standards, which must include at a minimum:
- 269 (a) Detailed and measurable acceptance criteria for each deliverable and service
270 to be provided to the state agency under the terms of the contract that document
271 the required performance level.

- 272 (b) A method for monitoring and reporting progress in achieving specified
273 performance standards and levels.
- 274 (c) The sanctions or disincentives that will be imposed for nonperformance by
275 the contractor or state agency.
- 276 (6) A provision that requires the contractor and its subcontractors to maintain
277 adequate accounting records that comply with all applicable federal and state laws
278 and generally accepted accounting principles.
- 279 (7) A provision that authorizes the state agency to have access to and audit all
280 records related to the contract and subcontracts, or any responsibilities or functions
281 under the contract and subcontracts, for purposes of legislative oversight and a
282 requirement for audits by a service organization pursuant to professional auditing
283 standards, if appropriate.
- 284 (8) A provision that requires the contractor to interview and consider for employment
285 with the contractor each displaced state employee who is interested in such
286 employment.
- 287 (9) A contingency plan provision that describes the mechanism for continuing the
288 operation of the service or activity, including transferring the service or activity back
289 to the state agency or successor contractor, if the contractor fails to perform and
290 comply with the performance standards and levels of the contract and the contract is
291 terminated.
- 292 (10) A provision that requires the contractor and its subcontractors to comply with
293 public records laws specifically to:
- 294 (a) Keep and maintain the public records that ordinarily and necessarily would
295 be required by the state agency in order to perform the service or activity.
- 296 (b) Provide the public with access to the public records on the same terms and
297 conditions that the state agency would provide the records.
- 298 (c) Ensure that records that are exempt or records that are confidential and
299 exempt are not disclosed except as authorized by law.
- 300 (d) Meet all requirements for retaining records and transfer to the state agency,
301 at no cost, all public records in possession of the contractor on termination of
302 the contract and destroy any duplicate public records that are exempt or
303 confidential. All records stored electronically must be provided to the state
304 agency in a format that is compatible with the information technology systems
305 of the state agency.

(11) A provision that addresses ownership of intellectual property. This paragraph does not provide the specific authority needed by a state agency to obtain a copyright or trademark.

(12) If applicable, a provision that allows the state agency to purchase from the contractor, at its depreciated value, assets used by the contractor in the performance of the contract. If assets have not depreciated, the state agency shall retain the right to negotiate to purchase at an agreed on cost.

Section 6. {Council accounting method.}

The council, by rule, shall establish an accounting method that:

(1) Is similar to generally accepted accounting principles used by a private enterprise.

(2) Allows an agency to identify the total actual cost of engaging in a commercial activity in a manner similar to how a private enterprise identifies the total actual cost to the private enterprise, including the following:

(a) Labor expenses, such as compensation and benefits, costs of training, costs of paying overtime, costs of supervising labor or other personnel expenses.

(b) Operating costs, such as vehicle maintenance and repair, marketing, advertising or other sales expenses, office expenses, costs of an accounting operation such as billing, insurance expenses, real estate or equipment costs, debt service costs or a proportionate amount of other overhead or capital expenses, such as vehicle depreciation and depreciation of other fixed assets.

(c) Contract management costs.

(d) Other costs particular to a person supplying the good or service.

(3) Provides a process to estimate the taxes a state agency would pay related to engaging in a commercial activity if the state agency were required to pay federal, state and local taxes to the same extent as a private enterprise engaging in the commercial activity.

Section 7. {Governor; required review of commercial activities.}

Beginning with a fiscal year the legislature designates, the Governor, at least once every two fiscal years, shall select at least three commercial activities that are being performed by a state agency to be examined by the Governor's Office of Strategic Planning and Budgeting.

Section 8. {Duties of the Governor's budget office} ~~Governor's Office of Strategic Planning and Budgeting.~~}

(A) The ~~Governor's Office of Strategic Planning and Budgeting~~ {Governor's budget office} shall:

(1) Determine the amount of an appropriation that is no longer needed by an executive branch agency because all or a portion of the agency's provision of a good or service is privatized.

(2) Adjust the Governor's budget recommendations to reflect the amount that is determined under paragraph 1.

(3) Report its findings to the President of the Senate and the Speaker of the House of Representatives.

(B) This section does not prevent the Governor from making a budget recommendation regarding the restoration of a portion of the appropriation to a state agency that is reduced under this section.

Section 9. {Applicability.}

This article does not apply to contracts in support of the planning, development, implementation, operation or maintenance of the road, bridge and public transportation construction program of the Department of Transportation.

Section 10. {Initial terms of members of the Council on Efficient Government.}

Notwithstanding Section 2 of this bill, the initial members of the Council on Efficient Government who are engaged in private enterprise shall assign themselves by lot to terms of one or two years in office. The appointing authority shall make all subsequent appointments as prescribed by statute.

Section 11. {Severability Clause.}

Section 12. {Repealer Clause.}

Section 13. {Effective Date.}

*Approved by the Tax and Fiscal Policy Task Force on July 17, 2009.
Approved by the ALEC Board of Directors on August 27, 2009.*

PROPOSED AMENDMENTS

Promoting Transparency in State Unfunded Liabilities

It is clear that citizens are demanding greater transparency in accounting for the costs of state and local government. Given the large and growing unfunded liabilities in pension and other post employment benefit plans, it is crucial for state and local governments to meet accounting standards for these plans established by the Government Accounting Standards Board (GASB).

- ALEC's intent is to make citizen access to GASB information as open, transparent, and publicly accessible as possible. Increasing transparency significantly contributes to governmental accountability, public participation, and the understanding of the cost of government services.
- Consumers of financial information about state and local governments have found the funding status of pension and Other Post Employment Benefits (OPEB) for public employees to be valuable. The degree to which sufficient resources have been set aside to pay future benefits is of particular importance.
- ALEC firmly believes that state and local governments should meet GASB standards for reporting pension and Other Post Employment Benefits (OPEB) costs and obligations in their financial statements.
- These standards require the presentation of a schedule of funding progress that shows whether the funded status of these plans is improving or worsening over time. This schedule compares a plan's actuarially calculated total obligation with the value of assets that have been accumulated to pay benefits. Two ratios are provided to assess progress toward funding and the magnitude of a government's obligation:

Funded Ratio

The funded ratio is the actuarial value of assets divided by the actuarial accrued liability (the total obligation).

Covered Ratio

The covered ratio is the unfunded actuarial accrued liability (the difference between the total obligation and the actuarial value of assets) divided by the total payroll of employees covered by the plan.

- State budget office should strive to make publicly available an online searchable database that discloses all liabilities in public pension and other post employment benefit systems in the state.

- This liability should reflect the latest liability calculated according to a single, risk-free discount rate (in addition to GASB's now recommended "blended" discount rates)
- State budget officials should also strive to make publicly available the actuarially determined Annual Required Contribution (ARC), including its underlying assumptions, and the actual contributions made by the legislature in an online searchable database

Pension Myths Keep Us From Making Badly Needed Reforms

By [JONATHAN WILLIAMS AND WILL FREELAND](#)

Posted 02/07/2014 06:26 PM ET

As 2014 brings in new struggles for cities and states to pay for employee legacy costs while still funding the essential functions of government, policymakers on both sides of the aisle are reconsidering how to provide a secure retirement for state and municipal employees in a responsible manner.

Reports estimate total unfunded pension liabilities exceed \$4 trillion across the 50 states, and Detroit's municipal bankruptcy, along with dozens more over the last half decade, are just the tip of the iceberg.

Many thoughtful criticisms have come from reform discussions, but also many attacks built on misconceptions, "straw man" arguments and blatant myths. Here are a few facts about reform:

Fact 1: Bipartisan pension reform is responsible and achievable:

Opponents of pension reform often cite partisan politics and ideology as the driving forces behind efforts to repair underfunded retirement systems, but this couldn't be further from the reality of pension reform.

Most reform plans proposed by policymakers are modest and suggest a move from highly unpredictable defined-benefit plans, where the state or city government acts like a bank or investment fund for employee retirement, and instead gives employees specific contributions to hold in their own retirement account, much like the 401(k) retirement plans that most private sector employees have.

Fact 2: The status quo is not working and is in need of structural reforms, not tweaks or better management:

The story of how pensions got to \$4 trillion in debt is simple and largely uniform across the states. Politicians overpromise benefits to employees in the short term, boosting support from those employees, while pushing the cost of enhanced benefits into the future by underfunding pension contributions.

Pension debt accumulates under this underfunding/overgiving incentive dynamic, and is then compounded by the associated unreasonable investment return assumptions and risky investing that states rely on to make up for pension underfunding.

The servicing and repayment of that debt is crowding out the provision of essential public services, preventing states and cities from making their tax codes more competitive, and even forcing many municipalities (and, perhaps soon, states) into bankruptcy.

Defined-contribution plans force 100% retirement funding every year, taking the decision out of politicians' hands. Assuming that in the future policymakers will make sound decisions is the formula that got states \$4 trillion in the financial hole.

Fact 3: Pension reform is not anti-worker, and does not mean stripping employees of their retirement, shrinking benefits and stagnant pay:

Moving to a defined-contribution plan removes the possibility of future debt accumulation by a state, and making that change doesn't strip employees of their retirement or even cut their retirement benefits — it protects their nest egg.

What does strip employees of their pensions is municipal bankruptcy. Defined-contribution plans help prevent bankruptcy, and in case it still occurs, those employees' plans maintained outside of the city's own finances are safe from bankruptcy judges.

Finally, a pension system free of pension debt means more budgetary slack for employees' salaries and government services. Pension debt squeezes current revenue without providing current benefits to taxpayers, leading to stagnant public spending across the board, including employee compensation.

Fact 4: Defined-contribution plans mean safe investments with low fees and low transition costs:

Prudent state treasurers, empowered by watchful policymakers, can easily make sure that management fees are low for defined-contribution plans and employees are constrained to a set of secure investments.

Further, the actual costs of switching to a defined-contribution system are minimal, especially once on-paper accounting recalculations of already incurred debt are rightly ignored.

In fact, the low cost of administering defined-contribution plans is one key reason the private sector has overwhelmingly chosen these plans over poorly structured defined-benefit plans. With sound oversight and lawmaking, defined contribution can be safe from undue risk, exorbitant cost, and unreasonable complexity.

The path forward:

Perhaps the most dangerous financial threat to states today is in the area of unfunded pension liabilities for government employees. Pension reform should not be viewed as a story of warring views of government or society, but instead a bipartisan and broad ideological coalition of responsible citizens, watchdogs and policymakers standing up and choosing viable public employee retirement policy.

Divisive myths about pension reform obscure this and distract from the task at hand: protecting retirement security for our public servants while ensuring that government can provide necessary services and maintain tax competitiveness without saddling our children with crippling debt.

- *Williams is the director of the American Legislative Exchange Council Center for State Fiscal Reform.*
- *Freeland is a policy analyst at the center.*



It's Very Simple, States Should Cut Taxes To Boost Economic Growth

11/22/2013 @ 8:00AM 2,221 views

By Ben Wilterdink

There was a strong trend of states cutting taxes this year, with 18 states passing significant tax cuts into law during the 2013 legislative session. With one-third of the United States cutting taxes, it is clear economic growth has become a top priority for states that want to dig out of the dismal economy that followed the recession.

The 2013 tax cuts range from a nearly complete overhaul of a state's tax code to a few small changes. The year's biggest tax cut was enacted in North Carolina as part of a comprehensive tax reform package. Ohio also passed major tax relief this year, and the final deal gave Ohio room to claim the biggest year-to-year tax cut enacted in 2013. In the wake of the major tax cuts made this year, three distinct trends can be identified:

People are moving to lower-tax states

Some states choose to fill budget shortfalls by increasing economic growth and expanding the total tax base. Rather than driving up rates on a small number of overburdened taxpayers, these states create an environment where people and businesses can flourish. This attracts more people and businesses to the state, which in turn allows the state to grow its revenue by virtue of having a larger population paying taxes. According to the latest IRS data, Texas, which does not levy a personal income tax, gained almost a million new taxpayers over the past ten years. Florida, another no-income-tax state, gained well over a million taxpayers during that same time period. California by contrast, which has the highest personal income tax rate, lost more than 1.5 million taxpayers over that same period. It is clear low-tax states—many of which are highlighted in the American Legislative Exchange Council's 2013 State Tax Cut Roundup—are leading the nation in enacting major tax relief measures and will reap the rewards of increased economic growth.

Companies are relocating their businesses to lower-tax states

Recently, Jimmy Johns Sandwiches announced it would be leaving Illinois and heading to Indiana or Texas. Apple recently invested more than \$300 million in a new Texas campus. Hertz rental cars moved its headquarters from New Jersey to Florida. Tax and fiscal policy decisions matter to businesses, and the proof is where existing businesses move and where new businesses start.

States without a personal income tax experience more growth

Over the last decade, population in the nine states with no personal income tax grew 150 percent more than their high-tax counterparts. The no-income tax states also saw their gross state product grow 40 percent more than their high-tax counterparts.

While not all tax cuts are created equal, studies from organizations ranging from the Tax Foundation to the Organization for Economic Cooperation and Development agree that taxes on capital and income are far more damaging to an

economy than taxes on consumption. All taxes create a barrier between work and reward and tend to negatively affect economic growth at some level, but there is widespread agreement that taxes on income are among the worst for economic growth. State-level economic data from the past 10 years proves this true, and shows that states that do not levy a personal income tax are outperforming their high-tax counterparts in just about every way.

At a time of seemingly endless budget battles, the data shows that states that foster low taxes are far more likely to economically outperform the states that raise taxes to cover budget deficits. Maryland, for example, has increased taxes and fees a total of 40 times since 2007 and yet the state still expects to face major budget shortfalls for years to come.

The data is clear: states with a lower tax burden are able to achieve higher rates of growth in almost every economic category. In the 2013 legislative session, 18 states received this message. If the remaining 32 states desire to stay competitive, it is best they follow their low-tax, pro-growth counterparts.

Ben Wilterdink is a research analyst at the American Legislative Exchange Council's Center for State Fiscal Reform.

Political gridlock shouldn't be solved with monarchy

William Freeland

Policy Analyst, American Legislative Exchange Council

5:46 PM 12/23/2013

With the endless gridlock of modern Washington, it's tempting to want to ditch the whole American constitutional system and install a king, who could at least get things done. This is essentially what [David Brooks is proposing in his column this month](#), though he doesn't quite come out and say it. Brooks is right that gridlock is stifling desperately needed policy innovation and reform, but is wrong about the [cause and solution for it](#).

The problem is too much [power](#) and authority is centralized in the federal government. The solution is to look to the states, which are already a hotbed of policy innovation and reform. What America's politics needs is a federal government that tends to those issues uniquely suited to the federal government and delegates all other authority to the states, shattering gridlock and ushering in a political process that more rapidly advances sound public policy.

The architects of the American system anticipated the lobbyists and "ideological enforcers" Brooks bemoans — they called them "[factions](#)" — and devised a system to [account](#) for them. What the founding fathers did not appear to properly anticipate was the rise of a federal government with seemingly boundless scope in policymaking discretion. The federal government of limited, enumerated powers has been replaced by a federal government that insists on legislating, rule-making, and executive-ordering on any and all topics. Rarely is the question asked of federal policy proposals, "is there any technical or economic rationale for not allowing the state governments to address this problem?"

This trend has major impacts on our federal politics. The United States is a vast country with many different socio-economic profiles, cultural values, and economic interests. The problem with a national legislature is it must craft one-size-fits-all policy for everyone, from Vermont ranchers to Silicon Valley entrepreneurs. The result of that political and ideological battle is gridlock. The more powerful the federal government becomes, the higher the stakes for winning this battle. Money and the

power-hungry are attracted to politics like a bug is attracted to a light bulb: the brighter the light, the greater the draw. And so, gridlock grows as government grows. But there is an alternative.

Instead of the citizens of politically different states squaring off in federal politics for control of the federal one-sized-fits-all system, the citizens of those states could instead foster 50 state-based policy environments. And the citizens in every state that disapprove of their state's policy can move to a different state with different laws with far less of a barrier and lower [cost](#) that becoming an expatriot and moving abroad.

Under such a system, Texas conservatives and California liberals can stop fighting over federal policy like Obamacare. California can implement a state-based version of Obamacare or even single-payer healthcare, and Texas can push for free market reform. Gridlock solved. Then, social scientists can debate the results and self-interested citizens (along with the [businesses](#) they run and the capital they wish to invest) can pick a state that fits their ideological preferences and/or the greatest quality of living. The principle of subsidiarity — that power should be delegated to the smallest and most decentralized authority capable of addressing a matter — is essential to sound governance and policy innovation.

As Travis Brown shows in *How Money Walks* and Chapter 3 of the most recent edition of *Rich States, Poor States*, Americans are not afraid to opt for the “leave it” clause of the “love it or leave it” proposition. A million-and-a-half citizens have left California over the last decade, just as nearly a million citizens have chosen Texas.

It's also worth noting that the exact type of bold reform that Brooks desires is happening on the state level and can be supercharged if the federal government will get out of the state's way. States are leading the way with bold reforms across the nation in an attempt to better the lives of their citizens and compete for labor, capital, and firms. Moreover, 50 states experimenting to find the best public policy environment leaves the federal government to focus on its core responsibilities.

When it comes to federal policymaking, Americans can do far more with less. The founding fathers, who roundly rejected a king, did not seem to [share](#) David Brooks notion that gridlock was best dealt with by monarchy. Federalism is the proper tool to break the gridlock that ails America's politics.

William Freeland is a research analyst at the Center for State Fiscal Reform at the American Legislative Exchange Council.

State ranking group faults Idaho for PERSI accounting, preferential tax incentives to attract business

Posted on [March 11, 2014](#) by [Austin Hill](#)

Idaho has done relatively well at growing its economy during the past several years, and its future economic outlook is almost as strong as its immediate past performance.

But, according to the American Legislative Exchange Council (ALEC), a Washington, D.C.-based nonprofit think tank that analyzes and ranks the states, Idaho policymakers should consider making some course corrections in order to fulfill the state's potential.

Jonathan Williams, director of ALEC's Center for State Fiscal Reform, for example, addressed his concerns with the Public Employees Retirement System of Idaho (PERSI). "States across the country have used faulty accounting practices for years, just so they can say that their public pension systems don't have problems," he noted. "Idaho, for example, assumes a 7 percent rate of return every year, without interruption, for the next 30 years."

Williams calls foul with PERSI's rosy self-analysis. "Bond rating agencies like Standard and Poor's assumes only a 4.5 to 5 percent rate of return for PERSI and so does Warren Buffett. If you use these more modest projections from outside sources, it turns out that PERSI's unfunded liabilities are much higher than what your state government will acknowledge."

"We've got two broad legislative issues that we're dealing with during this session and they both have the name 'Utah' attached to them,"

Sen. Cliff Bayer, R-Boise, commented. Noting [House Bill 548](#), which seeks to conditionally cut the state's income and corporate tax rates, and [House Bill 546](#), known as the "tax reimbursement incentive" program, Bayer asked "what does it do to a state when tax incentives are only offered to specific industries or even specific companies?"

"Utah gets a high ranking with us because not only have they held taxation rates at low levels, they have also kept their spending within their means," Williams replied. "That said, we do take a strong stance against giving tax preferences to specific companies and industries, and instead we argue for tax policy neutrality. When you take the 'jump through the hoops' approach to tax policy, companies end up making choices for tax purposes rather than for economic growth purposes, and that generally never goes well."

But, in general, "Idaho really is doing fairly well," noted Williams, in speaking to members of the Senate and House Capitol on Tuesday. "On some issues your state ranks very high, and on some issues not as high, but overall you are performing well."

In a publication entitled "Rich States, Poor States," ALEC has provided in-depth economic analysis of the inner workings of each of the 50 states, and then ranks each of the states. With Utah ranked No. 1 and Michigan ranked 50th, ALEC puts Idaho at No. 6 for its recent economic performance, and No. 7 in terms of its economic outlook.

The report also provides numerical grades on specific areas of public policy within each of the states. Idaho earns high marks for its policy of making labor union membership optional rather than mandatory, and for lack of a state inheritance tax.

But Idaho also ranks in the bottom half of the nation for its top marginal income tax rate and for the income tax progressivity.

During the presentation, Sen. Dan Schmidt, D-Moscow, asked "I notice your grading of Idaho's tax policy. How does our tax policy impact growth rates?"

"Obviously, that's one of those variables that lawmakers can control," Williams replied. "Generally speaking, the lower the personal income tax rate, the better the economic productivity."

Williams, along with his ALEC associate Jeff Lambert, spoke to the legislators in a gathering co-hosted by Sen. Jim Patrick, R-Twin Falls, and Rep. Jeff Thompson, R-Idaho Falls. "These are very important facts and ideas that these gentlemen have for us," Patrick said. "In fact, it's so important that I got the Senate floor session delayed by half an hour today so we'd have time to listen to this."

After the presentation, Thompson told IdahoReporter.com that "these ideas that were presented here are grounded in true Jeffersonian principles. This is about giving freedom to the people and it is what we are trying to do with our tax policy here in Idaho."

Missouri Tax Hypocrisy

Governor Jay Nixon vetoes income tax cuts for citizens; pushes corporate carve-out

By: [alecstates \(Diary\)](#) | January 17th, 2014 at 01:07 PM |

Just a few months after Missouri's Governor Jay Nixon vetoed a small but beneficial **income tax cut, totaling \$700 million over 10 years** (barely larger than the one-year value of **recent cuts in North Carolina**), the Governor convened a special session to provide tax carve-outs for aircraft manufacturer, Boeing. That special session resulted in **\$1.7 billion in tax incentives** to be paid out over 23 years, albeit with some job creation performance targets Boeing is required to hit in order to receive said tax benefits. The juxtaposition of these events provides an awkward contradiction.

First, the suggestion that Boeing needs to be incentivized to move to Missouri suggests that the state's public policy is not as competitive as it should be. Missouri ranked 23rd in the most recent edition of *Rich States, Poor States*, demonstrating that the state needs to take on proactive reforms in order to be a leader in competitiveness for firms, talented labor, entrepreneurs, and business capital. If Missouri had a tax and labor climate that was truly competitive, there would have been no need for special, sweetheart deals for just one business.

Moreover, the state has just rejected policy reforms that would have incentivized Boeing to relocate to Missouri. The Missouri Legislature passed a tax cut for all Missourians in 2013, but the governor vetoed it and the legislature was unable to override that veto. Governor Nixon should rethink his position against broad-based tax cuts and his support of tax cuts for special interests.

But there is a more fundamental question here. If tax cuts will help bring Boeing to Missouri, how many other firms are not deciding to relocate into Missouri due to the uncompetitive tax code? **ALEC has long argued that low taxes and broad bases are a boon to the economy**. The Governor seems to have realized that low taxes do matter to Boeing, but at the same time rejecting broad-based tax cuts that would help to unlock growth statewide.

The state is now essentially picking winners and losers. In doing so, they are not only missing out on other large businesses looking to relocate, but they are missing out on all of the unexpected successes of mid-sized and small businesses that could be the next Boeing. Sadly, smaller businesses don't have the political clout of a company like Boeing, and don't provide politicians the same opportunity to pose at ribbon-cutting ceremonies and point out how many jobs they "created" with a special deal. Extraordinary economic performance comes with a tax system that is both low and applied very broadly, not narrow policies benefiting just a few big businesses.

Lastly, it is worth noting that the reason Boeing was considering leaving its current home in Washington State in the first place was because of a **labor dispute with its machinists union**. As such, if Missouri wants to take a proactive step to entice Boeing, they could consider advancing Right-to-Work legislation: another broad-based policy that would help businesses beyond just Boeing. Not only would this help address Boeing’s labor concerns, but as the latest edition of *Rich States, Poor States* points out, Right-to-Work states have stronger economic performance than their forced union counter-parts:

Table 7 | 22 Right-to-Work States vs. 28 Forced Union States*

Growth Rates, 2001-2011

States*	Gross State Product	Population	Nonfarm Payroll Employment	Personal Income
22 Right-to-Work States*	59.20%	13.10%	11.20%	56.90%
50 State Average**	51.40%	9.50%	7.60%	49.40%
28 Forced Union States*	45.20%	6.80%	4.80%	43.60%

*Equal-weighted average; IN and MI were not included as RTW states because the law had not passed in these states during this time period.

**Equal-weighted average; does not include D.C.

Source: Bureau of Economic Analysis, U.S. Census Bureau, Bureau of Labor Statistics, Laffer Associates

Thankfully, there is still time to enact sound public policy. Missouri should take economic competitiveness seriously and create a level playing field in which businesses are free to compete. Imagine the competitive advantage of a state government treating big businesses and small businesses equally.

William Freeland and Ben Wilterdink are research analysts for the Center for State Fiscal Reform at the American Legislative Exchange Council. ([crosspost](#))

Tags: [American Legislative Exchange Council](#), [Jay Nixon](#), [Missouri](#), [Rich States Poor States](#), [right to work](#), [tax cuts](#)



THE PREMIER NETWORK OF LIBERTY-MINDED
YOUNG PROFESSIONAL LEADERS

President Obama Can Find Change In The States

FEBRUARY 5, 2014 | BEN WILTERDINK

President Obama's State of the Union address has produced a polarizing effect on the nation; some **fully support him** while others express serious concerns about his growing propensity to **ignore federal law** and act "unilaterally." President Obama recognized many of the nation's problems, from high corporate income taxes to stalling incomes. Fortunately, we need not implement Obama's flawed solutions or start from scratch. The fixes to many of our nation's problems are found in the pro-growth and limited government reforms that have been implemented throughout the states.

Unemployment is one such problem. The President said during his address the United States has "the lowest unemployment rate in over five years." This is mainly because so many people have **dropped out of the U.S. workforce**, stopped looking for work and therefore no longer count in the U.S. unemployment rate. A more accurate way to assess the market would be to analyze job growth. This measures the total number of jobs that were added over a given time period. States that have taken the President's advice and have moved to raise taxes on "high earners" have learned the hard way that taking money out of people's pockets does not help grow the economy. In fact, from 2001 to 2011, the **nine states** with the highest personal income taxes have increased their total employment by only 4.9 percent. Over the same time period, the **nine states** with no personal income taxes saw their total employment grow by 12.7 percent, more than double. The no income tax states also saw state revenue grow by 76.3 percent due to economic growth compared with only 47.9 percent growth from their high tax counterparts. Now *that's* deficit reduction.

The State of the Union also focused on the need for corporate income tax reform. The United States has **the highest corporate income tax** rate in the world; this issue must be addressed if America wants to remain competitive with the rest of the world. It is refreshing to see that the President, at least in broad principle, admits that **tax rates matter** to attract businesses and grow the economy. The U.S. tax code is enormously burdensome and complex. The best move for economic growth and attracting businesses is reducing the top tax rates and broadening the tax base, preferably by closing economically damaging tax preferences for favored industries (like those enjoyed by **Solyndra**). This type of revenue-neutral tax reform is good, but lowering taxes altogether and letting Americans keep more of what they earn is great. This is another area where states have learned that lesson already and understand what cutting taxes means for economic growth. In the 2013 legislative session, **more than a third** of U.S. states voted to cut taxes for their citizens. Washington should take a lesson.

Making sure that middle class wages do not stall is another problem the President sought to address. Of course, his solution is to raise the minimum wage and force many low-income and low-skilled workers out of the jobs they have.

"Tonight, I ask more of America's business leaders to follow John's lead and do what you can to raise your employees' wages," President Obama said during his speech. Of course, if he gets his way, they will not have a choice. Making labor more expensive for businesses (i.e. making it more expensive for employers to hire people) is well known to contribute to much higher rates of **unemployment**. Once again, the lesson from the states is illustrative. The latest state **unemployment data** shows that North Dakota, Nebraska, South Dakota, Utah, and Iowa are the five states with the lowest state unemployment rates and have the minimum wage set at the federally mandated floor of \$7.25 per hour. Rhode Island, Nevada, Illinois, Michigan, and California, by contrast, are the five states with the highest state unemployment rates. Unsurprisingly, all of them have a state minimum wage that is higher than the federally mandated floor.

When it comes to solving America's challenges, the states provide an excellent source of knowledge as to what works and what does not. Free market and limited government policies allow states to prosper and could allow the country as a whole to prosper as well. Perhaps next year, President Obama will take a look at some of these examples.

Ben Wilterdink is a research analyst at the American Legislative Exchange Council's Center for State Fiscal Reform.



PUBLIC SECTOR INC

State tax cuts: the year that was, the year that is to come

[JONATHAN WILLIAMS](#) DECEMBER 20, 2013 [ARTICLES](#), [FORUM](#)

by Jonathan Williams and Ben Wilterdink

Taxpayers had much to be thankful for in 2013. As ALEC's recent [State Tax Cut Roundup](#) outlines, 18 states cut taxes during this year's legislative session: Alaska, Arkansas, Florida, Idaho, Indiana, Iowa, Kansas, Mississippi, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin. The largest share of tax cuts were to the personal income tax. That is welcome news for taxpayers, since many economists consider taxes on capital and income as the most harmful to growth.

Here are some highlights.

North Carolina: [Lawmakers in North Carolina enacted some of the most significant, pro-growth tax reforms of the last decade](#). While the plan was fairly comprehensive in nature, starting on January 1, 2014, every income tax bracket in North Carolina's three-tiered system will be merged into a single tax bracket. In addition to this major simplification, all income tax payers will also receive an income tax cut, as the rate will be reduced to 5.8 percent (from 7.75 on the highest bracket).

North Carolina lawmakers also voted to completely eliminate the state's death tax and multiple business taxes.

Overall, absent any new policy developments, taxpayers in North Carolina will be some of the biggest winners in 2014.

Kansas: Governor Sam Brownback and free-market policymakers in the Kansas Legislature started what *The Wall Street Journal* called the "[Heartland Tax Rebellion](#)" in 2012. They were able to benefit taxpayers across the board by significantly reducing income taxes and even eliminating the income tax on non-wage income for pass-through businesses like S-corps. This tax relief will continue to be phased in during 2014, and, under current law, the personal income tax rate will fall all the way to 3.9 percent, from 6.45 percent prior to the reform. Some leaders in the legislature, like House Taxation Committee Chairman, Richard Carlson and Speaker Ray Merrick, would like to see the income tax phased out completely, by means of using spending limits and revenue triggers over time.

The recent success of fundamental tax reform in North Carolina and Kansas will continue to influence debates over state tax policy for years to come. In fact, our prediction is that the most active tax debates in 2014 will occur within these two states' regions.

Oklahoma: Governor Mary Fallin has warned that Oklahoma could soon be caught in a “no income tax sandwich” between Texas and Kansas. With this week’s state Supreme Court ruling that [invalidated Oklahoma’s 2013 tax cuts](#), look for free market boosters within the Oklahoma Legislature to revisit the topic in 2014.

Nebraska: Governor Dave Heineman in Nebraska has called for comprehensive tax reform in the Cornhusker State in 2014. Though Nebraska did repeal its much-despised alternative minimum tax in 2013, the state’s income tax rates now verge on becoming uncompetitive with its neighbors’. In addition to having to compete with the lower rates in Kansas, Nebraska shares borders with Wyoming and South Dakota, neither of which have an income tax.

Georgia and Tennessee: Lawmakers in southeast states are acutely aware of the courageous reforms in North Carolina. Georgia State Senator Judson Hill, who chairs the Senate Finance Committee, has been conducting hearings on tax reform with the stated intent of not only matching North Carolina, but perhaps creating an even stronger business climate in the Peach state. Lawmakers in neighboring Tennessee are looking to repeal the economically damaging “Hall Tax” on investment income. The Volunteer State is already one of the nine states without a personal income tax on wages, and North Carolina’s actions might provide just the momentum they need.

Broadly speaking, many of the tax cuts states enacted in 2013 are scheduled to be phased in over a multi-year window; some were even made retroactive to January 1, 2013. While we expect some states to enact bold, pro-growth tax and fiscal policy reforms in 2014, unfortunately there may also be taxpayers who will be even worse off in the New Year due to tax increases.

Conventional wisdom suggests that significant policy changes occur mostly in non-election years, because elected officials want to avoid making many difficult decisions during the campaign season. But that wisdom is now being challenged by increasing economic competition between states for human and investment capital. According to Internal Revenue Service statistics compiled by [author Travis Brown](#), more than 43 million Americans and more than \$2 trillion in wealth has migrated from one state to another in the past 15 years alone.

In other words, Americans are “voting with their feet”—and checkbooks—at a record pace. States are quickly realizing they must participate in this race to become more competitive. Even with conventional wisdom suggesting a quiet 2014, keep an eye on the 50 laboratories of democracy for pro-growth, pro-taxpayer changes next year.

Williams serves as director of ALEC’s Center for State Fiscal Reform and co-authors the book, [Rich States, Poor States](#). Wilterdink serves as a research analyst at the Center for State Fiscal Reform



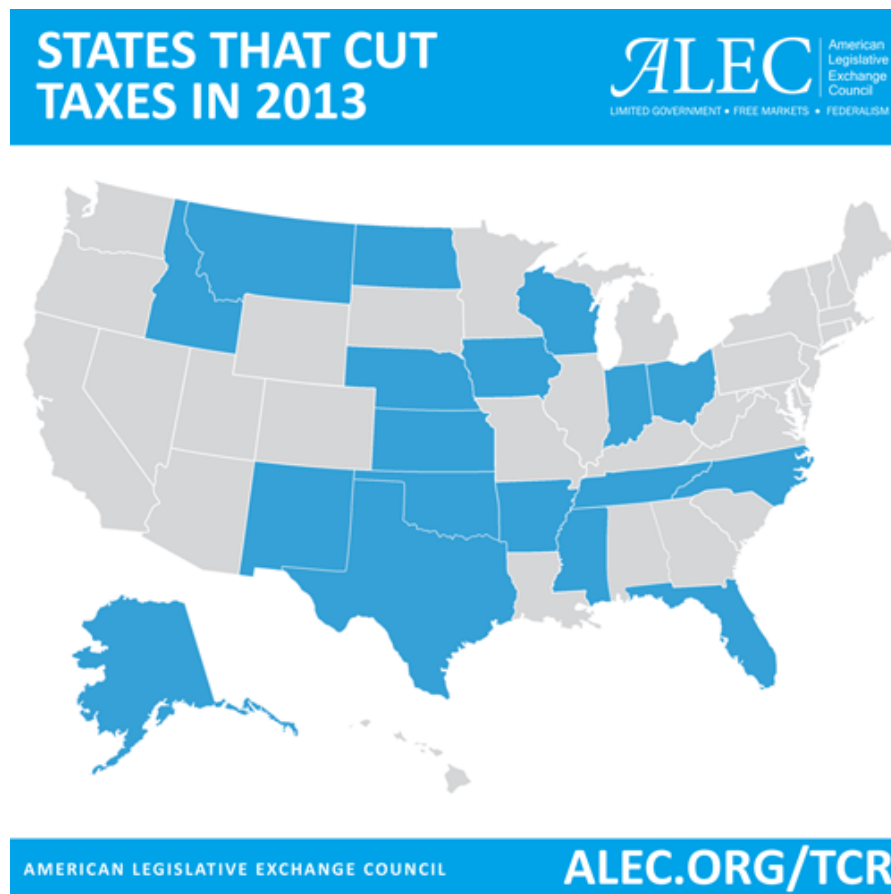
States Reject Big Government

More than one-third of states move in the exact opposite direction from Washington, lower taxes

By: **alecstates (Diary)** | November 25th, 2013 at 03:22 PM |

While much of the national focus is fixed on the colossal failures of the **Affordable Care Act**, states are looking to set themselves apart from the dysfunction of the federal government and jumpstart their own economies. The “help” states receive from the federal government, from **mandates on energy production** to healthcare coverage, often kill jobs and make it more difficult for people and businesses to flourish.

States have had enough, and in 2013 alone, a remarkable 18 states voted to significantly cut taxes (contrast this to the federal government’s Affordable Care Act, which contains **20 new or higher taxes**). We now see states moving in the exact opposite direction of Washington, instead choosing to free their citizens from many of the oppressive taxes that hamper economic growth. The American Legislative Exchange Council’s newest report “**State Tax Cut Roundup**” highlights the 18 states that chose to cut taxes in 2013.



Unlike the federal government, states actually have to **balance their budgets** and do so in a way that allows their economy to grow. Far and away, state level data show that reducing the tax burden is best way to achieve this goal. Perhaps the most telling comparison is to measure total economic growth in the 9 states that have no income tax versus the 9 states with the highest income taxes. Data from *Rich States, Poor States*, the ALEC-Laffer State Economic Competitiveness Guide, shows that in the past ten years, the no-income tax-states have grown economically 40 percent faster than their high tax counterparts and have also seen 150 percent more population growth.

By no means is the connection between **lower taxes and increased economic growth** new. Taxes are a well-established drag on economic growth; so much so that the former head of President Obama's Council of Economic Advisors, Christina Romer, and her husband, David Romer, **reported as much** in a 2010 report. Among other things, the report found that for every one percent increase in taxes, economic output would decline by 2 to 3 percent. The Obama Administration's response to this was to increase taxes 20 times and nationalize one-sixth of the American economy with the healthcare takeover known (ironically at this point) as the Affordable Care Act.

Most people understand that extracting vast amounts of wealth away from people and businesses might not be a great idea if you want those businesses to grow. Whether it's making small changes to reduce the tax burden or overhauling the state's tax code, like **North Carolina**, 18 states received the message loud and clear and chose to act. States realize that in the real world, gridlock is a luxury they simply cannot afford.

Enacting tax reform to ensure citizens and businesses keep more of their own money is a natural way for states to grow their economies. In fact, with federal mandates in just about every area from labor to education to healthcare, tax codes are one public policy area where states can determine a path independent of Washington, D.C. Federalism is alive and well in state tax policy. People will eventually vote with their feet and move where there are jobs and opportunities. The **data** supports this conclusion with people flooding into states that have significantly lower tax burdens.

By rejecting tax increases and instead choosing more economic growth and more economic freedom, many states are able to offer the nation a choice in accepting one of two opposing visions. People and businesses can choose to go to Texas, Florida, or North Carolina (all states that cut taxes in 2013) or they can choose to stay with the model the federal government seems to be following. With over a third of states deciding to cut taxes this year, the other 32 would be wise to catch up.

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Tags: **alec, federalism, Rich States Poor States, tax cuts, taxes**



PUBLIC SECTOR
INC

Tax Reform and Pension Reform

BEN WILTERDINK MARCH 11, 2014 FORUM

Congressman Dave Camp's recently released [tax reform draft](#) has stimulated a much-needed national conversation about the U.S. tax code, attracting [praise](#), [criticism](#) and [skepticism](#). Buried in the plan is one tax change that could significantly influence the pension reform debate now raging nationwide at the state and local level.

Camp's plan would require top earners to pay a [surtax](#) on previously untaxed municipal (muni) bond interest. Currently, state and local governments use tax-exempt muni bonds to fund capital projects such as bridges and new school buildings. The proposed surtax might negatively affect top bracket taxpayers' willingness to invest in muni bonds.

Overall, eliminating this tax preference might be good tax policy. But in the near-term, the surtax will squeeze already tight municipal budgets. Adding a surtax to muni-bond interest—which effectively increases the cost of issuing muni bonds—could force state and local governments to choose whether to fund pensions or capital projects. Governments should act quickly to reform the greatest existing threat to their budgets: unfunded pension liabilities.

The cost cities pay for issuing debt has increased as investors realize that muni bonds are not quite as “risk free” as had been previously believed. The high profile bankruptcies of [Detroit](#) and [Stockton, CA](#) have caused investors to take a second look at the municipal bond markets.

One reason why state and local governments are struggling to properly fund pensions is because most still operate on a [defined-benefit pension system](#). Under this system, the retirement benefits promised to employees are fixed, regardless of how well the investments performed throughout employees' working career. Any shortfall must be made up, ultimately, by taxpayers and taxpayers alone. Most municipalities assume an [8 percent rate of return](#) every year on pension investments. When the 8 percent rate of return is not realized, underfunding and increased taxpayer contributions are the result.

Some Detroit bondholders will likely receive less than they are owed, but the Stockton example is more troubling. When that city went bankrupt, the largest creditor was CalPERS, the California Public Employee Retirement System. While bankruptcy proceedings usually attempt to cut obligations owed to creditors in an equitable way, the [City Council's bankruptcy plan](#) has promised CalPERS full payment while in turn promising as little as 20 percent payment to bondholders. [Moody's](#) reacted to Stockton's bankruptcy by immediately downgrading the credit rating of neighboring Solano County, and many more municipal credit downgrades are sure to come. The bankruptcy exit plan would also be the first time in many decades that a city reduced the principal on its debt. The plan seems to have the support of the federal bankruptcy judge, but [bondholders](#) still plan to fight.

State and local borrowing costs are inevitably going up because of credit downgrades, unfair bondholder treatment and a possible surtax on interest for top earners. As for pensions, quick fixes are no longer enough to sustain the status quo. Ending unsustainable defined-benefit plans and putting new hires into [401\(k\) style defined-contribution plans](#) is the best way for municipalities to cap unfunded pension liabilities. Once capped, current obligations can be more easily paid off over time.

Municipalities should still meet their pension obligations for current and retired workers, but lawmakers must realize that defined-benefit pension plans are no longer viable options. Defined-contribution retirement plans are the most sustainable path forward if municipalities desire to keep their pension promises.



Mission Statement

To advance free markets, limited government,
and federalism.

**American Legislative Exchange Council
TASK FORCE OPERATING PROCEDURES**

I. MISSION OF TASK FORCES

Assume the primary responsibility for identifying critical issues, developing ALEC policy, and sponsoring educational activities which advance the Jeffersonian principles of free markets, limited government, federalism, and individual liberty. The mission will be accomplished through a non-partisan, public and private partnership between ALEC's legislative and private sector members in the specific subject areas assigned to the Task Force by the Legislative Board of Directors.

II. TASK FORCE RESPONSIBILITIES

- A. Task Forces have the primary responsibility for identifying critical issues and developing ALEC's official policy statements and model legislation appropriate to the **specific subject areas** of the Task Force.
- B. Task Forces serve as forums for an exchange of ideas and sharing of experiences between ALEC's state legislator and private sector members.
- C. Task Forces are responsible for developing and sponsoring the following educational activities appropriate to the specific subject area of the Task Force:
 - publications that express policy positions, including, but not limited to State Factors and Policy Briefs;
 - educational communication and correspondence campaigns;
 - issue specific briefings, press conferences and press campaigns;
 - witness testimony and the activities of policy response teams;
 - workshops at ALEC's conferences; and
 - specific focus events.
- D. The Executive Director is to develop an **annual budget**, which shall include expenses associated with Task Force meetings and educational activities. A funding mechanism to finance all meetings and educational activities proposed by Task Forces must be available before they can be undertaken.

III. GENERAL PROCEDURES

- A. Requests from ALEC members for policy statements, model legislation and educational activities shall be directed by the Executive Director to the appropriate Task Force, or the Legislative Board of Directors if the issue does not fall within the **jurisdiction** of any Task Force. The appropriate Public and Private Sector Task Force Co-Chairs determine the agenda for each Task Force meeting, and the meetings will be called and conducted in accordance with these Operating Procedures.

The Director of Policy with the consent of the Executive Director assigns a model bill or resolution to the most appropriate Task Force based on Task Force content and prior jurisdictional history 35 days before a Task Force Meeting. All Task Force Co-Chairs will be provided an email or fax summary of all **model bills and resolutions 35 days before** the Task Force meeting

If both the Co-Chairs of a Task Force are in agreement that they should have jurisdiction on model legislation or a resolution, the legislation or resolution will be considered by the Task Force. If the other Task Force Co-Chairs believe they should have jurisdiction or if the author of the model bill or resolution does not agree on the jurisdictional assignment of the bill, they will have **10 days after the 35-day mailer deadline** to submit in writing or by electronic appeal to the Director of Policy their intent to challenge the jurisdiction assignment. The Director of Policy will notify the Executive Director who will in turn notify the National Chair and the Private Enterprise Advisory Council Chair. The National Chair and the Private Enterprise Advisory Council Chair will in turn refer the matter in question to the Legislative Board of Directors Task Force Board Committee. The Director of Policy will establish a conference call for the Task Force Board Committee co-chairs, the author, the affected Task Force Co-Chairs and the Director of Policy at a time convenient for all participants.

The Task Force Board Committee Co-Chairs shall listen to the jurisdictional dispute by phone or in person within 10 days of the request. If both Task Force Board Committee Co-Chairs are in agreement that the Director of Policy made an incorrect jurisdictional referral, only then will the model bill or resolution be reassigned to a committee as they specify once agreed upon by the **National Chair and the Private Enterprise Advisory Council Chair**. The bill or model resolution is still eligible to be heard in whatever Task Force it is deemed to be assigned to as if submitted to the correct Task Force for the 35-day mailer. The National Chair and the Private Enterprise Advisory Council Chair decision is final on this model bill or resolution.

Joint referral of model legislation and/or resolutions are allowed if all the affected Task Force Co-Chairs agree. All model legislation and resolutions that have been referred to, more than one Task Force must pass the identical

language in both Task Forces within two consecutive Task Force meetings. It is at the Task Force Co-Chairs discretion how they will handle the hearings of the model legislation or resolution. Both sets of co-chairs have the ability to call a working group, subcommittee, or simply meet consecutively or concurrently if necessary.

If the Task Force co-chairs both agree to waive jurisdiction, they may do so as long as another Task Force still has jurisdiction.

The National Chair and the Private Enterprise Advisory Council Chair will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Advisory Council Chair.

- B. **The National Chair and the Private Enterprise Advisory Council Chair** will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Board Chair.
- C. **The Legislative Board of Directors** shall have ultimate authority over Task Force procedures and actions including the authority to create, to merge or to disband Task Forces and to review Task Force actions in accordance with these Operating Procedures. Nothing in these Operating Procedures prohibits the Legislative Board of Directors from developing ALEC policy; however, such a practice should be utilized only in exceptional circumstances. Before the policy is adopted by the Legislative Board of Directors, it should be sent to the Public and Private Sector Task Force Co-Chairs under whose jurisdiction the matter falls for review and comment back to the Legislative Board of Directors.
- D. **The operating cycle of a Task Force** is two years. A new operating cycle begins on January 1 of each odd numbered year and ends on December 31 of the following even numbered year. Task Force activities shall be planned and budgeted on an annual basis within each two-year operating cycle.

- E. If a Task Force is **unable to develop an operating budget**, the Legislative Board of Directors will determine whether to continue the operations of the Task Force. This determination will be made according to: (1) the level of membership on the Task Force, and (2) the need for continued services developed by the Task Force for ALEC.
- F. **The Legislative Board of Directors** shall have the authority to allocate limited general support funds to finance the annual operating budget of Task Forces that meet the requirements prescribed in Section III (E). The Executive Director shall determine, and report to the Legislative Board of Directors, the amount of general support funds available to underwrite such Task Forces.

IV. MEMBERSHIP AND MEMBER RESPONSIBILITIES

- A. The membership of a Task Force consists of legislators who are members in good standing of ALEC and are duly appointed to the Task Force, in accordance with Section VI (A) and private sector organizations that are full members of ALEC, contribute to the assessment for the Task Force operating budget, and are duly appointed to the Task Force, in accordance with Section VI (B). Private sector organizations that were full members of ALEC and contributed the assessment for the Task Force's operating budget in the previous year, can be appointed to the Task Force for the current year, conditional upon renewal of full ALEC membership and receipt of the current year's assessment for the Task Force operating budget prior to March 31st, unless an alternative date has been approved by the Executive Director.
- B. Each Task Force shall have least two **Co-Chairs**; a Public Sector Task Force Co-Chair and a Private Sector Task Force Co-Chair. The Public Sector Task Force Co-Chair must be a member of the Task Force and appointed in accordance with Section VI (A). The Private Sector Co-Chair must represent a private sector member of the Task Force and be appointed in accordance with Section VI(B). The Co-Chairs shall be responsible for:
 - (1) calling the Task Force and the Executive Committee meetings to order, setting the agenda and co-chairing such meetings;
 - (2) appointing and removing legislators and private sector members to and from the Task Force Executive Committee and subcommittees;
 - (3) creating subcommittees, and determining each subcommittee's mission, membership limit, voting rules, deadlines, and term of service; and
 - (4) selecting Task Force members to provide support for and against Task Force policies during formal Board reviews.
 - (5) Reviewing bills that are approaching the five year Sunset as specified in Section

C. Each Task Force shall have an **Executive Committee** appointed by the Public and Private Sector Task Force Co-Chairs that is appropriate in number to carry out the work product and strategic plan of ALEC and the Task Force. The Executive Committee shall consist of the Public Sector Task Force Co-chair, the Private Sector Task Force Co-Chair, the subcommittee co-chairs, and the remainder will be an equal number of legislative and private sector Task Force members. The Executive Committee will be responsible for determining the operating budget and proposing plans, programs and budgets for the succeeding year in accordance with (Section V (B)); determining if a proposed educational activity conforms to a previously approved model bill, resolution or policy statement in accordance with (Section IX (F)); and determining if an emergency situation exists that justifies waiving or reducing appropriate time limits in accordance with (Section VIII (H)).

D. Each Task Force may have any number of **subcommittees**, consisting of Task Force members and advisors to focus on specific areas and issues and make policy recommendations to the Task Force. The Task Force Co-chairs, shall create subcommittees and determine each subcommittee's mission, membership limit, voting rules, deadlines, and term of service. Any model bill, resolution or policy statement approved by a subcommittee must be approved by the Task Force and the Legislative Board of Directors before it can be considered official ALEC policy.

~~D.E.~~ Joint Task Forces may be established with the approval of the Legislative Board of Directors. Joint task forces would be formed from within an existing task force. Public sector members would be permitted to serve on both task forces until the joint task force reached a level of both public and private sector membership to be self-sustaining. Existing private sector members would be permitted to participate on one or both task forces at their discretion. Joint task forces would be governed by all procedures prescribed for task forces in the Task Force Operating Procedures.

~~E.F.~~ Each Task Force may have advisors, appointed in accordance with Section VI (G). **Advisors** shall assist the members and staff of the Task Force. They shall be identified as advisors on official Task Force rosters, included in all official Task Force mailings and invited to all Task Force meetings. Advisors may also have their expenses paid at Task Force meetings covered by the Task Force operating budget with the approval of the Task Force Co-Chairs. An advisor cannot be designated as the primary contact of a private sector Task Force member, cannot be designated to represent a private sector Task Force member at a Task Force, Executive Committee, or subcommittee meeting, and cannot offer or vote on any motion at a Task Force, Executive Committee, or subcommittee meeting.

V. *Task Force Budgets*

- A. Each Task Force shall develop and operate a yearly budget to fund meetings.
- B. The **operating budget** shall be used primarily to cover expenses for Task Force meetings, unless specific funds within the budget are authorized for other use by the Task Force. The operating budget shall be assessed equally among the private sector members of the Task Force. The Executive Director, in consultation with the Task Force Co-Chairs shall determine which costs associated with each meeting will be reimbursed from the operating budget. Any funds remaining in a Task Force's operating budget at the end of a year are transferred to ALEC's general membership account.
- C. The operating budget shall not be used to cover Task Force meeting expenses associated with **alternate task force members'** participation, unless they are appointed by their State Chair to attend the Spring Task Force Summit with the purpose to serve in place of a Task Force Member who is unable to attend. Task Force meeting expenses of alternate task force members shall be covered by their state's scholarship account.
- D. The **programming budget** shall be used to cover costs associated with educational activities. Contributions to the programming budget are separate, and in addition to operating budget contributions and annual general support/membership contributions to ALEC. The Executive Director shall determine the contribution required for each educational activity.

VI. ***PROCESS FOR SELECTING TASK FORCE MEMBERS, ALTERNATES, TEMPORARY ALTERNATES, CHAIRS, COMMITTEES AND ADVISORS***

- A. Prior to February 1 of each odd-numbered year, the current and immediate past National chairman will jointly select and appoint in writing three legislative Task Force Members and up to five Alternate Legislative Members who will serve for the current operating cycle, after receiving nominations from ALEC's Public and Private State Chairs, the Executive Director and the ALEC Public and Private Sector members of the Board. At any time during the year, the National Chairman may appoint in writing new legislator members to each Task Force, except that no more than three legislators from each state may serve as members of any Task Force, no legislator may serve on more than one Task Force and the **appointment cannot be made earlier than thirty days** after the new member has been nominated. The Temporary Alternate appointment is the only exception. Each state has one temporary alternate position available for each Task Force. No less than seven days prior to the Task Force Meeting, the State Chair may submit a Temporary Alternate appointment in writing to the Task Force Director. The Temporary Alternate does not have permanent status on the Task Force and may not introduce

legislation. The appointment ends at the adjournment of the Task Force

Meeting. In an effort to ensure the nonpartisan nature of each Task Force, it is recommended that no more than two legislators of any one political party from the same state be appointed to serve as members of any Task Force. A preference will be given to those ALEC legislator members who serve on or chair the respective Committee in their state legislature.

- B. Prior to January 10 of each odd-numbered year, the current and immediate past National Chair will jointly select and appoint in writing **the Task Force Chair** who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Chair and may be placed in rank order prior to transmittal to the Executive Director no later than December 1 of each even-numbered year. No more than five names may be submitted in nomination by the outgoing Task Force chair. The current and immediate past National Chairs will jointly make the final selection, but should give strong weight to the recommendations of the outgoing Task Force Chair. In an effort to empower as many ALEC leaders as possible, State Chairs and members of the Legislative Board of Directors will not be selected as Task Force Chairs. Task Force Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past National Chairs may reappoint a Task Force Chair to a second operating cycle term.
- C. Prior to February 1 of each odd numbered year, the Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members of the **Task Force Executive Committee**, who will serve for the current operating cycle. The Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members and advisors to any subcommittee.
- D. Prior to February 1 of each year, the Private Enterprise Advisory Council Chair and the immediate past Private Enterprise Advisory Council Chair will select and appoint in writing the private sector members to the Task Force who will serve for the current year. The appointment letter shall be mailed to the individual designated as the primary contact for the private sector entity. At any time during the year, the Chair of the Private Enterprise Advisory Council may appoint in writing **new private sector members** to each Task Force, but no earlier than thirty days after the new member has qualified for full membership in ALEC and contributed the assessment for the appropriate Task Force's operating budget.
- E. Prior to January 10 of each odd-numbered year, the Chair of the Private Enterprise Advisory Council and the immediate past Private Enterprise Advisory Council Chair will select and appoint in writing the **Task Force Private Sector Co-Chair** who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by

the outgoing Task Force Private Sector Chair and may be placed in rank order prior to transmittal to the Chair of the Private Enterprise Advisory Council. The Chair and the immediate past Chair of the Private Enterprise Advisory Council will make the final selection, but should give strong weight to the recommendations of the outgoing Private Sector Task Force Co-Chair. In an effort to empower as many ALEC private sector members as possible, Private Enterprise State Chairs and members of the Private Enterprise Advisory Council will not be selected as Private Sector Task Force Co-Chairs. Private Sector Task Force Co-Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past Chair of the Private Enterprise Advisory Council may reappoint a Task Force Private Sector Chair to a second operating cycle term.

- F. Prior to February 1 of each odd-numbered year, the Task Force Private Sector Co-Chair will select and appoint in writing the **private sector members of the Task Force Executive Committee**, who will serve for the current operating cycle. The Task Force Private Sector Co-Chair shall select and appoint in writing the private sector members of any subcommittees.
- G. The Public and Private Sector Task Force Co-Chairs, may jointly appoint subject matter experts to serve as **advisors** to the Task Force. The National Chair and the Private Enterprise Advisory Council Chair may also jointly recommend to the Task Force Co-Chairs subject matter experts to serve as advisors to the Task Force.

VII. REMOVAL AND VACANCIES

- A. The National Chair may remove any Public Sector **Task Force Co-Chair** from his position and any legislative member from a Task Force with or without cause. Such action will not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive Task Force meetings.
- B. The Public Sector Task Force Co-Chair may remove any legislative member of an **Executive Committee or subcommittee** from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive meetings.
- C. The Chair of the Private Enterprise Advisory Council may remove **any Private Sector Task Force Co-Chair** from his position and any private sector member from a Task Force with cause. Such action shall not be taken except upon thirty days written notice to such Chair or member whose removal is proposed.

For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues. .

- D. The Private Sector Task Force Co-Chair may remove any **private sector member of an Executive Committee or subcommittee** from his position with cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.
- E. The Public and Private Sector Task Force Co-Chairs may remove an **advisor** from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such advisor whose removal is proposed.
- F. Any member or advisor may **resign** from his position as Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, public or private sector Task Force member, Task Force advisor, Executive Committee member or subcommittee member at any time by writing a letter to that effect to the Public Sector and Private Sector Task Force Co-Chairs. The letter should specify the effective date of the resignation, and if none is specified, the effective date shall be the date on which the letter is received by the Public and Private Task Force Co-Chairs.
- G. All **vacancies** for Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, Executive Committee member and subcommittee member shall be filled in the same manner in which selections are made under Section VI. All vacancies to these positions must be filled within thirty days of the effective date of the vacancy.

VIII. MEETINGS

- A. **Task Force meetings** shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs. Task Force meetings cannot be held any earlier than thirty-five days after being called, unless an emergency situation has been declared pursuant to Section VIII (H), in which case Task Force meetings cannot be held any earlier than ten days after being called. It is recommended that, at least once a year, the Task Forces convene in a common location for a joint Task Force Summit. **Executive Committee meetings** shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs and cannot be held any earlier than three days after being called, unless the Executive Committee waives this requirement by unanimous consent.
All ALEC model bills and resolutions will have an original adoption date and five year sunset date which can be renewed by a vote of the Task Force

Executive Committee or the full Task Force and the ALEC Legislative Board of Directors.

All bills or model resolutions that are four years from adoption date will have one year for the Task Force to review and vote on whether to extend another five years. The Task Force Director will transmit all four year old model bills and resolutions to the Task Force Executive Committee no later than **65 Days** before the next Task Force Meeting.

In the **65 Day Notice** ALEC Staff will make one of the following recommendations for each four year model bill or resolution to the Task Force Executive Committee.

- The policy should sunset
- The policy should be amended
- The policy should be retained

The Task Force Co Chairs may appoint a special committee to review the recommendations from the ALEC staff. Executive Committees are to vote **40 Days** prior the next Task Force Meeting. The Executive Committees shall vote by phone, in person, or by any electronic means.

If a two-thirds majority of the Task Force **Executive Committee votes to retain** the model bill or resolution that action is to be reported to the full Task Force. The model bill or resolution will be directly transmitted to the Legislative Board of Directors for consideration. No Task Force vote is necessary since the model bill or resolution is existing policy and both the Task Force Executive Committee and the Legislative Board of Directors will vote to extend the sunset.

If a majority of the Task Force **Executive Committee agrees to sunset, amend, or retain** the model bill or resolution the model policy moves onto the full Task Force. The Task Force Executive Committee will transmit all model bills that are to expire as sunset or that are to be amended to the full Task Force. At the Co-Chairs discretion, any bill or resolution up for task force consideration may be placed on the **consent slate** that will go before the full Task Force.

Any member of the Task Force may make a motion to separate any model bill or resolution from the Consent calendar but must have an additional four members of the Task Force rise in support to second the motion. It would take a majority of the public and private sector bill to take any action on the model bill or resolution.

All model bills retained, amended, or sunset will go before the Legislative Board of Directors for approval before adoption as described in Section IX.

- B. **At least forty-five days** prior to a task force meeting any model bill, resolution or policy must be submitted to ALEC staff that will be voted on at the meeting. At least thirty-five days prior to a Task Force meeting, ALEC staff shall distribute copies of any model bill, resolution or policy statement that will be voted on at that meeting. This requirement does not prohibit modification or **amendment** of a model bill, resolution or policy statement at the meeting. This requirement may be waived if an emergency situation has been declared pursuant to Section VIII(H).
- C. **All Task Force meetings are open** to registered attendees and invited guests of ALEC meetings and conferences. Only Legislative Members who serve as regular Task Force Members may introduce any resolution, policy statement or model bill. Private Sector Task Force members will be allowed to participate in the Task Force meeting discussions and be seated at the table during Task Force meetings.
- D. ALEC private sector member organizations may only be represented at Task Force and Executive Committee meetings by the individual addressed in the **appointment letter** sent pursuant to Section VI (D) or a designee of the private sector member. If someone other than the individual addressed in the appointment letter is designated to represent the private sector member, the designation must be submitted in writing to the Public and Private Sector Task Force Co-Chairs before the meeting, and the individual cannot represent any other private sector member at the meeting.
- E. All Task Force and Executive Committee meetings shall be conducted under the guidelines of **Roberts Rules of Order**, except as otherwise provided in these Operating Procedures. A copy of the Task Force Operating Procedures shall be included in the briefing packages sent to the Task Force members prior to each meeting.
- F. A majority vote of legislative members present and voting and a majority vote of the private sector members present and voting, polled separately, are required to approve any motion offered at a Task Force or Executive Committee meeting. A **vote** on a motion to reconsider would be only with the sector that made the motion. Members have the right, in a voice vote, to abstain and to vote present by roll-call vote. In all votes a member can change their vote up until the time that the result of the vote is announced. Only duly appointed members or their designee as stated in Section VIII (D) that are present at the meeting may vote on each motion. **No proxy, absentee or advance voting is allowed.**
- G. The Public Sector Task Force Co-Chair and the Private Sector Task Force Co-Chair, with the concurrence of a majority of the Executive Committee, polled in accordance with Section VIII (F), may schedule a **Task Force vote by mail or any form of electronic communication** on any action pertaining to policy

statements, model legislation or educational activity. The deadline for the receipt of votes can be no earlier than thirty-five days after notification of the vote is mailed or notified by any form of electronic communication, unless an emergency situation is declared pursuant to Section VIII (H), in which case the deadline can be no earlier than ten days after notification is mailed or notified by any form of electronic communication. Such votes are exempt from all rules in Section VIII, except: (1) the requirement that copies of model legislation and policy statements be mailed or notified by any form of electronic communication with the notification of the vote and (2) the requirement that a majority of legislative members voting and a majority of the private sector members voting, polled separately, is required to approve any action by a Task Force.

- H. For purposes of Sections VIII(A), (B) and (G), an **emergency situation** can be declared by:
- (1) Unanimous vote of all members of the Task Force Executive Committee present at an Executive Committee meeting prior to the meeting at which the Task Force votes on the model bill, resolution or policy statement; or
 - (2) At least three-fourth majority vote of the legislative and private sector Task Force members (voting in accordance with Section VIII (F)) present at the meeting at which the members vote on the model bill, resolution or policy statement.
- I. Ten Task Force members shall **constitute a quorum** for a Task Force meeting. One-half of the legislative and one-half of the private sector members of an Executive Committee shall constitute a quorum for an Executive Committee meeting.

IX. ***REVIEW AND ADOPTION PROCEDURES***

- A. All Task Force policy statements, model bills or resolutions shall become **ALEC policy** either: (1) upon adoption by the Task Force and being deemed within the scope of ALEC's core mission affirmation by the Legislative Board of Directors or (2) 70 days after adoption by the Task Force if no member of the Legislative Board of Directors requests **a formal review by the Board of Directors**, or (3) the National Chair may request an expedited vote on any bill that passed the Task Force by a 2/3 vote and is deemed within ALEC's core mission which waives all the Board deadlines. General information about the adoption of a policy position may be announced upon adoption by the Task Force.
- B. The Executive Director/Senior Director of Policy shall transmit within 20 days all Task Force policy statements, model bills or resolutions to the Executive

Committee of the Board of Directors. The Executive Committee shall review and determine that each bill or model resolution is deemed within the scope of core issues. If not found to be within the scope of core issues the bill is returned to the Task Force. If the bill is found to be within the scope of core issues it shall be placed before the Board for consideration for adoption.

- C. The Executive Director/Senior Director of Policy shall transmit from the Executive Committee to the full Board any policy statement, model bill or resolution within ten days of such approval. Members of the Legislative Board of Directors shall have thirty days from the date of Task Force approval to review any new policy statement, model bill or resolution prior to adoption as official ALEC policy. Within those thirty days, any member of the Legislative Board of Directors may request that the policy be formally reviewed by the Legislative Board of Directors before the policy is adopted as official ALEC policy.
- D. A member of the Legislative Board of Directors may request a formal review by the Legislative Board of Directors. The **request must be in writing** and must state the cause for such action and a copy of the letter requesting the review shall be sent by the National Chair to the appropriate Task Force Chair. The National Chair shall schedule a formal review by the Legislative Board of Directors no later than the next scheduled Legislative Board of Directors meeting. If the model bill or resolution has previously undergone a challenge before the full Board the National Chair may elect any of the following options:
 - Allow for a second formal review
 - Allow for a vote only at the next Board Meeting waiving Section IX (E) except for staff analysis.
 - Allow for an early vote of the full board by any means of electronic communication waiving Section IX(E) except for staff analysis.
- E. The review process will **consist of key members of the Task Force**, appointed by the Task Force Chair, providing the support for and opposition to the Task Force position. Position papers may be faxed or otherwise quickly transmitted to the members of the Legislative Board of Directors. The following is the review and adoption procedures:
 - **Notification of Committee:** Staff will notify Task Force Chairs and the entire task force when the Board requests to review one of the Task Forces' model bills or resolutions.
 - **Staff Analysis:** Will be prepared in a neutral fashion. The analyses will include:
 - History of Task Force action
 - Previous ALEC official action/resolutions
 - Issue before the Board

- Proponents arguments
- Opponents arguments
- **Standardized Review Format:** To ensure fairness, a set procedure will be used as the format to ensure the model bill/resolution has a fair hearing before the Board.
 - Task Force Chair(s) will be invited to attend the Board Review
 - Task Force Chair(s) will decide who will present in support and in opposition for the model bill/resolution before the Board.
 - Twenty minutes that is equally divided will be given for both sides to present before the Board.
 - It is suggested that the Board not take more than twenty minutes to ask questions of the presenters.
 - Presenters will then be excused and the Board will have a suggested twenty more minutes for discussion and vote.
 - All votes will be recorded for the official record.
- **Notification of Committee:** The Director of Policy will notify presenters immediately after the vote. If the Board votes to send the model bill/resolution back to the task force, the Board will instruct the Director of Policy or another board member what to communicate.

F. The Legislative Board of Directors can:

- (1) Vote to affirm the policy or affirm the policy by taking no action,
or
- (2) Vote to disapprove the policy, or
- (3) Vote to return the policy to the Task Force for further consideration providing reasons therefore.

- G.** Task Forces may only undertake educational activities that are based on a policy statement, model bill or resolution that has been adopted as official ALEC policy, unless the Task Force votes to undertake the educational activity, in which case the educational activity is subjected to the same review process outlined in this Section. It is the responsibility of the Task Force Executive Committee to affirm by three-fourths majority vote conducted in accordance with Section VIII that an educational activity conforms to a policy statement, model bill or resolution.

X. EXCEPTIONS TO THE TASK FORCE OPERATING PROCEDURES.

Exceptions to these Task Force Operating Procedures must be approved by the Legislative Board of Directors.

STATE REIMBURSEMENT FUND ACCOUNT POLICY (WHERE APPLICABLE):

The purpose of the State Reimbursement Fund Account is to provide funding for state lawmakers to attend ALEC conferences, state focus events, and membership events. In those states which allow the establishment of a State Reimbursement Fund Account to be administered by ALEC in Arlington, VA, the Private Sector Chair (where permissible by state law), along with the Public Sector Chair, monitors both contributions and expenditures from that account. The Coordinator of Corporate and Nonprofit Affairs maintains the State Reimbursement Fund account and issues monthly reports of State Reimbursement Fund activity to the regional representatives at ALEC. The regional representatives then provide fund activity to the Public and Private State Chairs and Vice Chairs for their review. Contributions to the ALEC State Reimbursement Fund are tax deductible as ALEC is a non-profit 501(c)(3) corporation. All expenditures from the fund – where applicable – must be approved by the State Chair. No expenditures shall be approved for State Reimbursement Fund Accounts with negative balances. Likewise, no expenditures shall be approved if such will result in the State Reimbursement Fund Account having a negative balance. All disbursements from the ALEC State Reimbursement Fund must be in conformance with all applicable laws, regulations, and rules. Revisions and deviations from this Policy will be made whenever necessary to ensure that the State Reimbursement Fund Account is in full compliance with any applicable law, regulation, or rule.

State chairs must use the template letter with the ALEC logo and the template invoice. The public sector state chair must sign the template letter. Public Sector State Chairs have flexibility to add the signature(s) of the Private Sector State Chair, National Chair or Executive Director. State delegations are encouraged to complete fundraising efforts by the end of the first quarter.

AMERICAN LEGISLATIVE EXCHANGE COUNCIL BYLAWS:

Section 10.07 State Reimbursement Funds.

All funds for ALEC State Reimbursement Funds shall be deposited in accounts designated by the ALEC Legislative Board of Directors. State Chairs are prohibited from establishing, maintaining, or utilizing the accounts. Account expenses can be for ALEC only. Violation of this section shall constitute grounds for (1) immediate removal from a leadership position, and (2) dismissal from membership in accordance with these bylaws.

TRAVEL REIMBURSEMENT POLICY BY MEETING:

Spring Task Force Summit:

1. Spring Task Force Summit Reimbursement Form: ALEC Task Force members are reimbursed by ALEC up to \$350.00 for travel expenses. Receipts must be forwarded to the ALEC Policy Coordinator and approved by the Director of Policy.
2. ALEC Task Force Members' room & tax fees for a two-night stay are reimbursed by ALEC.
3. Official Alternate Task Force Members (chosen by the State Chair and whose names are given to ALEC more than 35 days prior to the meeting to serve in place of a Task Force Member who cannot attend) will be reimbursed in the same manner as Task Force Members.
4. State Reimbursement Form: Any fees above \$350.00 or for expenses other than travel and

room expenses can be submitted by Task Force Members for payment from the state account upon the approval of the State Chair. Receipts must be submitted to the State Chair who will approve disbursement. However, ALEC has ultimate authority over final disbursement. It is the responsibility of each member, not the State Chair, to mail their signed request to the Coordinator of Corporate and Nonprofit Affairs, ALEC, 2900 Crystal Drive, Suite 600, Arlington, VA 22202.

5. Non-Task Force Members can be reimbursed out of the state fund upon approval. Receipts must be submitted to the State Chair who will submit the signed form to the Senior Director of Membership and Development.

ALEC Annual Meeting:

State Reimbursement Form: State funds are available for reimbursement by approval of the ALEC State Chair. Expenses are reimbursed after the conference and may cover the cost of travel, room & tax, and registration. Receipts must be submitted to the State Chair who will approve disbursement. However, ALEC has ultimate authority over final disbursement. It is the responsibility of each member to mail their signed request form to the Coordinator of Corporate and Nonprofit Affairs, ALEC, 2900 Crystal Drive, Suite 600, Arlington, VA 22202.

ALEC States & Nation Policy Summit:

1. States & Nation Policy Summit Reimbursement Form: ALEC reimburses \$2,000.00 per state to cover the cost of travel, room & tax, and registration not to exceed \$1,000.00 per person for state for new ALEC legislators. ALEC recipients are selected by the ALEC State Chair. Expenses are submitted to the State Chair and reimbursed after the conference. The State Chair submits the signed form to the Senior Director of Membership and Development.
2. State Reimbursement Form: Any other fees or payments must be made out of the state account with ALEC's approval. Receipts must be submitted to the State Chair who submits the signed form to the Senior Director of Membership and Development.

ALEC Academies:

Academy Reimbursement Form: Attendees to ALEC Academies are reimbursed by the Task Force Committee hosting the Academy. Attendees will receive a form at the academy and will be reimbursed up to \$500.00 for travel, and room & tax fees for a two-night stay by ALEC. Receipts must be submitted to the State Chair who will approve disbursement. However, ALEC has ultimate authority over final disbursement. It is the responsibility of each member to mail their signed request signed form to the Coordinator of Corporate and Nonprofit Affairs, ALEC, 2900 Crystal Drive, Suite 600, Arlington, VA 22202. Receipts must be forwarded to the ALEC Policy Coordinator and approved by the Senior Director, Policy and Strategic Initiatives.